

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
TUESDAY, NOVEMBER 10, 2020 (WEBEX)

I. CALL TO ORDER

Mayor Ladwig called the Webex virtual meeting to order at 6:00pm. Council members in attendance: Ladwig, Clompus, West, Grover, Davies. City Staff in attendance: City Manager Eli Naffah, City Clerk Gabriel Adams, City Planner, Trevor Parker, City Attorney Russ Gans, Grant Administrator Becky Price-Hall. Approximately 32 attendees were present online at the beginning of the meeting.

II. PLEDGE OF ALLEGIANCE

III. ADJOURN TO CLOSED SESSION

1. Pursuant to Government Code, Section 54957: Continued City Manager Performance Evaluation

IV. RECONVENE TO OPEN SESSION & CLOSED SESSION REPORT – *Nothing to report.*

V. APPROVAL OF THE AGENDA

Motion (Grover/West) to approve the agenda as written. Passed unanimously.

VI. APPROVAL OF MINUTES

Motion (Grover/West) to approve the 09/08/2020 cc minutes as written. Passed unanimously.

Motion (West/Grover) to approve the 09/22/2020 G2G minutes as written. Passed unanimously.

VII. COUNCIL REPORTS/COMMITTEE ASSIGNMENTS

Grover: Working to include the Yurok Tribe in RCEA business. Thanked the City for overwhelming support in the November election.

Clompus: Written report submitted and included in the packet. Highlighted his roles on each committee assigned, including an update from the Drought Committee, the CCNM Gateway Committee, and requested a policy from the Council to enable the City to communicate with other governments.

Davies: Trails Committee met and prepared an annual report for presentation to the Council in January. Also discussed signage and budget.

Ladwig: Recognized residents Mary Kline and Dorothy Cox for volunteer effort in collecting litter through town.

West: Nothing to report.

VIII. STAFF REPORTS – *City Manager & Law Enforcement*

City Manager Eli Naffah noted the highlights listed in the packet report and provided an update on the cell facility removal on Trinidad Head.

IX. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Anita Thompson – Trinidad

Concerned with vehicles parked overnight on city streets, people sleeping in the post office lobby, and people loitering on school grounds. Last Thursday our neighbor's home was broken into. The Council noted the possibility of additional law enforcement coverage for the overnight hours. Would like to see these issues addressed.

Steve Madrone – Trinidad

Requested flow rates data for Luffenholtz Creek.

Written correspondence included:

Kathleen Lake – Trinidad

Submitted comments in writing regarding parking restrictions on Edwards Street, and the requirement for allowing public comments on closed session items.

X. CONSENT AGENDA

1. Staff Activity Report – October 2020
2. Financial Statements – September 2020
3. Law Enforcement Report – October 2020
4. Second Reading of Ordinance 2020-02: Amending Section 3.20.100 Regarding Transient Occupancy Tax Recordkeeping
5. Discussion/Decision regarding SB2 Housing/Planning Grant – SHN Scope of Work.

*Motion (Davies/Grover) to approve the consent agenda as amended, pulling Consent 5 for discussion. **Passed unanimously.***

Regarding Consent Agenda Item 5, **Davies** asked if the grant will accomplish a much needed parking study. City Planner Parker explained that the grant isn't for traffic counts, street widths, or safety, but will cover comprehensive parking research. The information will be useful as a supplement to an overall traffic study to be completed in the future.

No public comment.

*Motion (Davies/West) to approve Consent Item 5. **Passed unanimously.***

X. DISCUSSION/ACTION AGENDA ITEMS

1. Update/Presentation from the Greater Trinidad Chamber of Commerce

Chamber President Brett Schuler reported on how the Chamber has been impacted due to Covid, noting that the main 2020 events have been cancelled leaving the Chamber with no revenue source other than membership fees. He also noted that the Clam Beach Run will not occur in February, but the Chamber is looking for other ways to generate revenues to cover the services they provide. Schuler introduced Executive Director Allie Jones.

Jones displayed a presentation that outlined the Chamber's services, but also how their mission pivoted with Covid-19. She noted that their primary role has been to promote and connect local businesses and resources in sustainable ways during the shoulder seasons. The website has been redone and showcases the Chamber's member businesses. The Chamber continues to find ways of working with the City to support a safe and healthy place for tourist and the community, making Trinidad welcoming and hospitable, and protect the town residents during the pandemic.

No public comment.

Council comments included:

West: Complimented the Chamber on their presentation. **Grover** echoed the compliment.

Ladwig: Thanked the Chamber for promoting shoulder season tourism, and the thoughtful presentation.

Presentation item only. No decision was made.

2. Discussion/Decision regarding Alleged Brown Act Violation Letter Sent by the Trinidad Rancheria.

City Attorney Russ Gans explained that the City Council received a cease and desist letter in late October alleging the City Council violated the Brown Act during the Government to Government meeting held with the Yurok Tribe on September 22. In order to avoid unnecessary litigation and without admitting any violation of the Brown Act, the recommendation tonight is to send a reply to the Rancheria's legal counsel stating the Council hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action as described.

Council comments included:

Ladwig: I support the draft response. Should the Mayor be signing this letter alone, or should it be signed by the full Council? **Gans** explained that any action taken tonight will be owned by the full Council.

Clompus: I too support the response, but also encourage this Council to complete the Government to Government consultation policy that could be implemented quickly.

West and **Grover** voiced their support.

Davies: We need to keep the momentum moving forward on the Government to Government Policy and wrap it up as soon as possible.

*Motion (Clompus/Grover) to approve sending the cure and correct letter as drafted. **Passed unanimously.***

3. Discussion/Decision regarding Appeal of CDP 2020-01; Planning Commission Approval to Temporarily Close the Van Wycke Trail.

City Planner Trevor Parker explained that the application involves a proposal by City staff to issue a Coastal Development Permit (CDP) for after-the-fact and continued temporary closure of a portion of the Van Wycke Trail as was requested by the City's insurance company due to safety concerns. Detailed project background and information can be found in the staff report included in the packet. This proposal was considered by the Planning Commission at a duly noticed public hearing on July 15 and continued to August 19, 2020. At the August meeting, the Planning Commission approved the project by a 4-0 vote. Several people attended the meeting and/or wrote letters in opposition of the proposal. However, staff still recommended approval based on the PARSAC report and recommendations; if the trail is not closed, the City may not be covered should a claim be made. In addition, the closure is only temporary, and allows time for the City to explore repair options.

There are a couple of potential conflicts of interest that should be considered. Councilmembers Grover and Clompus both live within 300 ft. of the project. Under the Political Reform Act, there is a presumed financial conflict of interest if an official owns interest in real property within 500 ft. of a project (300 ft. in small jurisdictions under certain conditions). Councilmember Grover is a renter and Councilmember Clompus is an owner. Councilmember Clompus' property is just over 200 ft. from the western end of the trail closure. Because the financial conflict is presumed, an official can rebut that presumption if they determine their financial interest will not be affected one way or the other by the project. Otherwise, they have to recuse themselves from the decision. Councilmember Grover is a renter, and therefore may not have any financial interest in the project.

One of the concerns that has repeatedly been brought up by members of the public is that the trail closure is being done at the request of adjacent property owners/residents. Staff can assure the Council that is not the case, as documented by the PARSAC risk assessment and correspondence, but the issue should be considered in light of the City's ethics code.

In addition to the concerns regarding the motives for the proposal, members of the public also expressed concern that this temporary closure may turn into a permanent closure, which was not specifically addressed in the previous staff report. While the City may eventually determine that the only feasible option is to permanently close the trail, this approval for temporary closure will not make that decision any easier. For one, a permanent closure would require not just a CDP, but a Local Coastal Program (LCP) amendment prior to issuance of a CDP, because this trail is included in the existing LCP/general plan. An LCP amendment would need to be approved by the Planning Commission, City Council and Coastal Commission. Initial discussions with Coastal Commission staff indicate that such a proposal would need to be accompanied by a robust alternatives analysis showing that keeping the trail open is not feasible, and that alternative access will be provided. Only then could the City process a CDP for permanent closure.

In terms of procedure and action, the City Council can uphold or deny the appeal, or modify the Planning Commission's decision through additional conditions of approval or other means. It is staff's opinion that the required findings can be made and further recommends that a longer closure period be granted, because a solution to the slide and repair will likely not be agreed upon within six months, let alone constructed. **Staff recommends approval of the application with a modified condition extending the closure to one year after approval.**

If the Council wishes to approve the proposal, it is suggested that the motion be worded to deny the appeal and uphold the Planning Commission decision. On the other hand, a denial of the proposal and upholding the appeal should be based on not being able to make one or more of the required findings or an additional finding that the project is not consistent with one or more City LCP or Coastal Act policies. The Council may also elect to continue the item in order to request additional information.

Council questions included:

Clompus: What is the penalty for violating the trail closure? City Manager Naffah explained that by having a sign posted and the entrance blocked, violators use the trail at their own risk.

Davies: The appellant is concerned with the appeal response timeline. Regarding PARSAC, did they walk down the Axel Lindgren Memorial Trail, and if so did they feel having to use both hands and feet to get to the bottom was somehow safer than walking the Van Wycke Trail in its current condition? There is a State statute providing government entities with trail immunity. I would like to hear more about this.

Naffah explained that PARSAC recommended that the trail was unsafe and included it in their risk assessment report.

Ladwig: Asked Clompus and Grover whether they feel they have a conflict of interest in this discussion.

West: Concerned with Clompus's connection to the trail and whether a conflict exists.

City Attorney Russ Gans explained the conflict of interest policy. Councilmember **Clompus** did not believe a financial conflict existed, but agreed to recuse himself from the discussion out of caution.

Grover: I take issue with people assuming my motives for requesting the trail be closed. I witnessed several unsafe incidents with hikers on the trail. I do not have a financial conflict of interest, and will be part of this discussion and decision-making process.

Public comment included:

Kim Tays – Arcata

In the spirit of the cure and correct letter passed by the Council tonight, I recommend Grover and Clompus reconsider their refusal to recuse themselves. Reading from her appeal letter included in the packet, Tays compared Edward Street to highway 101, and argued the Van Wycke trail is not worse than any other trail in town. There is no barrier from oncoming traffic. Putting people on Edwards Street exposes the City in the same way as allowing them to walk the Van Wycke Trail. The trail was closed for a year without a permit. Closing the trail violates the Coastal Act. I would not object to the closure if a repair was planned. Meaningful traffic studies need to be done during the busy months and holidays. Prescriptive rights should be investigated and the trail should be permanently moved up-slope.

Dick Bruce – Trinidad

(Submitted written comments). I will go on record as in support of keeping the trail open. It is a very different experience than walking Edwards Street. The City has failed to maintain the trail and needs to do something about it. Steve Madrone suggested a repair scope that would cost less than \$10,000.

Bryce Kenny – Trinidad

The appeal should be granted. Edwards Street is a much different experience. The Coastal Act supports trails along the coast. The City has a long history of volunteerism. I agree with Dick Bruce that sufficient repairs can be done without triggering a CDP. We could fix it in 2 days with volunteers. You are elected to represent us.

Ted Pease – Trinidad Area

(Submitted written comments) I endorse the comments of both Kenny and Bruce. I spent 22 years walking this trail and will volunteer to help fix it.

Sarah Lindgren – Tsurai Ancestral Society (TAS)

The TAS recommends that the Council deny the appeal and support the trail closure, permanently. Volunteering has been very destructive to cultural resources, and trails are cultural resources within the village of Tsurai. We are respectful of the process and support access without compromising resources. There has to be action and respect to Tsurai culture. Words aren't as meaningful without action to follow them up.

Dwight Miller – Trinidad

(Submitted written comments). Thanked Sarah Lindgren for her comments. Strong supporter of Native American rights, but I support the appeal because the City down not have a repair plan in place. We want to be respectful of native rights, but a deeper discussion with the natives is necessary. I ask the Council to make a firm commitment to keep the trail open. If not, open it up and install signs warning users to use at their own risk.

Bryce Kenny – Trinidad

(Submitted written comments). In response to Ms. Lindgren's comments, it is clear that in her mind that the only way to respect Tsurai culture is to close the City down and turn it into what it used to be. For the last 8

years the City has been trying to give back the Village site, and has been met with obstructionism. They're trying to expand their jurisdiction to all parts of the City. If PARSAC recommended closing the trail for safety reasons, we should stick to that discussion topic.

Written correspondence included letters from the following individuals:

Yurok Tribe, in support of upholding the Planning Commission's decision, and to keep the trail closed.

Kathleen Lake, in support of the appeal submitted by Tays.

Tom Marquette, in support of the appeal submitted by Tays.

Council comments included:

West: I'm glad Ms. Lindgren spoke up. This has slowed the process a great deal and we want to do this properly. I don't believe we should close the trail, but we need to consider all options and continue the discussion. At this time and under these conditions, the trail can't be open.

Ladwig: We are being asked tonight to follow PARSAC's recommendations, vetted by the Planning Commission, and deny the appeal.

Davies: The process has been inconsistent. The trail was closed for a year without any option for public input. The CDP does not contain a repair plan. Modifying the appeal would create a moving target. Access along Edwards Street is not an equivalent experience. The air quality along Edwards is poor compared with Van Wycke. Regarding lawsuits, they are potentially everywhere. There are many places where sidewalks conflict with vehicles. A local restaurant allows parking in the pedestrian right of way. I want to hear more about State of California trail immunity laws, and support upholding the appeal as written by Ms. Tays.

*Motion (Davies) to uphold the appeal of CDP 2020-01 as submitted by Kimberly Tays. **Motion failed due to lack of second.***

Motion (Grover/Ladwig) to deny the appeal based on application materials information included in the Staff Report and other documentation, and based on public testimony. We find that the proposed action is consistent with the City's certified LCP and other applicable regulations, and move to uphold the Planning Commission action to approve the application as proposed. The condition limiting the approval to six months is modified to start with tonight's approval. **Motion passed by the following vote: 3 Yes (Ladwig, Grover, West) 1 No (Davies). 1 Recusal (Grover).**

4. Discussion/Decision regarding Proposition 68 Coastal Resilience Planning Grant.

City Grant Administrator Becky Price-Hall explained that On October 13, the City Council reviewed a proposal for the *Trinidad Community Coastal Resilience Planning Project* and directed staff to develop a full proposal for Prop 68 grant funding. As a reminder, the City was invited to submit a full application to the Ocean Protection Council for a Prop 68 Coastal Resilience Grant.

For many years, the City has been working to identify and address ongoing issues along Van Wycke and the bluff. The north section of Van Wycke "Street" below Edwards has utilities and a trail that have been impacted by slumping that has continued and worsened over a number of years. Saturation and instability of the bluffs and erosion at the beach on the south and west sides of Trinidad have led to a number of interrelated impacts to trails, utilities, natural and cultural resources, infrastructure and beach access. Stakeholders and the public have diverse and sometimes conflicting ideas about how to address the issues.

This Coastal Resilience Grant Program provides a great opportunity for the City of Trinidad to engage with stakeholders and the public in a planning process that doesn't start with solutions, but considers the situation in a community discussion of issues and concerns, then identifies appropriate solutions that have community support.

The proposed project is essentially the same as the proposal pre-application provided to Council at the October meeting, with the focus being to develop concept designs and implementation measures that address ongoing issues along Van Wycke and bluff. The primary difference is that a task will be added to continue the coastal hazards planning that was started under a grant from the Coastal Commission, which integrates well with other grants tasks and will be used to develop policies and implementation measures to be incorporated into the City's

Local Coastal Program update. Based on feedback from community members, the project will propose limited collection of data to fill information gaps identified during summary of the existing data and information. The Trinidad Bay Watershed Council has offered to host community meetings for coastal resilience planning, as well as to assist with information dissemination and outreach through their website and watershed newsletters.

Staff has presented the proposed project and invited feedback at the California Coastal National Monument Trinidad Gateway Committee meeting and Trinidad Bay Watershed Council meeting. Letters inviting input and participation have been sent to the Trinidad Rancheria, Yurok Tribe, Tsurai Ancestral Society, Board of Supervisors, Coastal Commission, Coastal Conservancy, State Parks, Marine Lab, California Sea Grant, Trinidad Coastal Land Trust, Humboldt MPA Collaborative and Trinidad Bay Watershed Council.

Council questions included:

Davies: What are the specific projects being proposed? If the outcome is 'a plan' to combat sea-level rise, will this be favorable when applying for grants to implement possible solutions? **Price-Hall** explained that there is no specific project. The focus is to fund and facilitate community engagement, including technical expertise that will supplement the discussions and possible collaborative solutions. Regarding implementation, this will be a key part of future grant writing proposals.

Public comment included:

Jacque Hostler – Trinidad Rancheria CEO

As Harbor property owners, the Rancheria is involved in coastal resiliency. We need to be part of the process, and request that the Van Wycke Coastal Resiliency Project to be discussed with the Rancheria.

Sheri Provolt – Yurok Tribal Council Member

Thanked City Staff for reaching out to the Yurok Tribe and Tsurai Ancestral Society in advance.

*Motion (Grover/Clompus) to direct staff to submit a full proposal for the Coastal Resilience Planning Program, due on November 13, 2020. **Passed unanimously.***

5. Annual Unmet Transit Needs Hearing.

City Manager Naffah introduced Marcella May, Executive Director of HCAOG. May explained that each year HCAOG conducts a citizen participation process to assess unmet transit needs within Humboldt County. The public is invited during this hearing to express their opinion, solutions, complaints, or suggestions regarding Humboldt County's public transportation systems and/or general unmet transit needs.

No comments or feedback regarding unmet transit needs were shared by the public or Council.

FUTURE AGENDA ITEMS

- Ladwig: Single item agenda to complete the G2G Policy.
- Davies: G2G Packet should include all meetings and comments made to date, including suggestions to how other cities use consultation.

ADJOURNMENT: 9:15pm.

Submitted by:

_____ signed copy on file _____
Gabriel Adams
Trinidad City Clerk

Approved by:

_____ signed copy on file _____
Steve Ladwig
Mayor